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6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 ABRAHAM TIGGS,

No. C 07-02620 SBA (PR)

11 Plaintiff,

**ORDER DIRECTING PLAINTIFF TO
FILE NEW IN FORMA PAUPERIS
APPLICATION**

12 v.

13 B. CURRY, et al.,

14 Defendants.
_____ /

15 Plaintiff Abraham Tiggs filed this civil rights action on May 16, 2007 when he was
16 incarcerated in state prison. On November 26, 2007, the Court received a letter from Plaintiff in
17 which he states that he no longer is incarcerated and that he is residing in San Francisco.

18 Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of
19 fees or security if he makes affidavit that he is unable to pay such fees or give security therefor. See
20 28 U.S.C. § 1915(a). But if the plaintiff is a prisoner who alleges that he is unable to pay the full
21 filing fee at the time of filing, he will be required to pay the full amount of the filing fee even if he is
22 granted in forma pauperis status. See 28 U.S.C. § 1915(b)(1). This is done by way of an
23 "installment plan," whereby the court will assess an initial payment, and the prisoner will be
24 required thereafter to make monthly payments of twenty percent of the preceding month's income
25 credited to the prisoner's account. See id. However, if a prisoner who seeks leave to proceed in
26 forma pauperis is released from prison while his action is pending, he will not be required to pay the
27 full filing fee if in forma pauperis status is granted. See, e.g., DeBlasio v. Gilmore, 315 F.3d 396,
28

399 (4th Cir. 2003) (statutory language, legislative intent and policy reasons dictate that prisoner granted in forma pauperis status when he filed action would not be liable for full amount of filing fee upon release but must be allowed to apply to proceed under general in forma pauperis provisions of § 1915(a)(1)), McGore v. Wrigglesworth, 114 F.3d 601, 613 (6th Cir. 1997) (same), McGann v. Comm'r, Soc. Sec. Admin., 96 F.3d 28, 29-30 (2d Cir. 1996) (same).

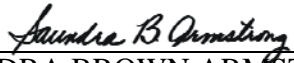
Because Plaintiff no longer is incarcerated, in order for the Court to assess whether he is entitled to proceed in forma pauperis he must apply to proceed in forma pauperis under the general provisions of 28 U.S.C. § 1915(a)(1). If, based upon the information provided by Plaintiff, the Court grants Plaintiff leave to proceed in forma pauperis, the Court will proceed to review the complaint under § 1915(e)(2).¹ If the Court determines that Plaintiff is not entitled to in forma pauperis status, he will be required to pay the full filing fee or the action will be dismissed.

Accordingly, Plaintiff is hereby ORDERED to file a new application to proceed in forma pauperis. Plaintiff shall answer all questions in the attached application and shall provide any requisite documentation. He shall file his completed application within **thirty (30) days** of the date of this Order. The failure to do so will result in the dismissal of this action without prejudice. Plaintiff's prisoner application to proceed in forma pauperis is TERMINATED as moot (docket no. 2).

The Clerk of the Court is directed to send Plaintiff a blank non-prisoner in forma pauperis application form.

IT IS SO ORDERED.

DATED: 1/15/08


SAUNDRA BROWN ARMSTRONG
United States District Judge

¹ Under this section, the Court is required to conduct a preliminary screening for frivolity, failure to state a claim, or immune defendants in any in forma pauperis action.

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2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA

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6
7 ABRAHAM TIGGS,

Case Number: CV07-02620 SBA

8 Plaintiff,

CERTIFICATE OF SERVICE

9 v.

10 B. CURRY, ET AL et al,

11 Defendant.
12 _____/

13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
14 Court, Northern District of California.

15 That on January 17, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
16 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
17 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
18 located in the Clerk's office.

19 Abraham T. Tiggs F-18763
20 172 6th Street
21 Apt. #510
22 San Francisco, CA 94103

23 Dated: January 17, 2008

24 Richard W. Wieking, Clerk
25 By: LISA R CLARK, Deputy Clerk
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